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Trustee in Bankruptcy

**UNITED STATES BANKRUPTCY COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**SAN FRANCISCO DIVISION**

In re BENJA INCORPORATED,  
  
Debtor.

Case No. 20-30819-DM  
Chapter 7

**STIPULATION TO FURTHER EXTEND  
TOLLING AGREEMENT  
(JOMBOY CORP.)**

Hearing: None requested.

This *Stipulation to Extend Tolling Agreement* (the “Stipulation”) is entered into by and between A. Kyle Everett (the “Trustee”), the duly appointed Chapter 7<sup>1</sup> trustee in the above-captioned bankruptcy case, and Jomboy Corp. (the “Potential Litigant,” and together with the Trustee, the “Parties”). In support of this Stipulation, the Parties state as follows:

**RECITALS**

A. On October 15, 2020, Benja Incorporated commenced the above-captioned bankruptcy case under Chapter 11. [ECF No. 1.] The Trustee was appointed as the Chapter 11 trustee on November 3, 2020. [ECF No. 45.] The case was subsequently converted to Chapter 7

<sup>1</sup> Unless specified otherwise, all chapter and code references are to the Bankruptcy Code, 11 U.S.C. §§ 101–1532. “Bankruptcy Rule” references are to the Federal Rules of Bankruptcy Procedure. “ECF” references are to the docket in this proceeding.

1 on January 29, 2021, and the Trustee was appointed as the Chapter 7 trustee. [ECF Nos. 85 and  
2 88.]

3 B. The estate may have claims against the Potential Litigant, including but not  
4 limited to claims related to transfers of certain interests in property of the Debtor to or for the  
5 benefit of the Potential Litigant.

6 C. The deadline, under Bankruptcy Code section 546(a), for Trustee to commence an  
7 action against the Potential Litigant, was initially October 17, 2022. *See* § 348(a); Bankruptcy  
8 Rule 9006(a)(1).

9 D. On October 5, 2022, the Parties executed a *Stipulation for Entry of Order Re*  
10 *Tolling Agreement (Jomboy Corp)* (the “Tolling Agreement”) [ECF No. 135]. The Tolling  
11 Agreement extended the deadline for any such action by Trustee through and including April 17,  
12 2023. The Court entered an order approving the Tolling Agreement on October 6, 2022 (the  
13 “Tolling Order”) [ECF No. 136].

14 E. The Parties subsequently extended the Tolling Agreement by stipulation. *See*  
15 ECF Nos. 154-155, 187-188. The current expiration date for the Tolling Agreement, per these  
16 extensions, is January 16, 2024.

17 F. The Parties have reached a tentative settlement agreement through BDRP  
18 mediation, but need more time to allow the Court to consider and rule upon a motion to approve  
19 the proposed settlement.

20 G. This Court has jurisdiction to extend applicable statutes of limitation, including  
21 the deadline set forth in Section 546(a). *Official Creditors’ Comm. for Qmect, Inc. v.*  
22 *Electrochem Funding, LLC (In re Qmect, Inc.)*, 349 B.R. 620, 624-25 (Bankr. N.D. Cal. 2006)  
23 (citing 140 Cong. Rec. H. 10752, H10768 (daily ed. Oct. 4, 1994) for the proposition that “[t]he  
24 time limits set forth therein are not intended to be jurisdictional and can be extended by  
25 stipulation between the necessary parties to the action or proceeding.”).

26 H. The Parties desire to extend all applicable statutes of limitation, including but not  
27 limited to the Section 546(a) deadline, by an additional 60 days, to March 18, 2024.  
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